

LS

(1)

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

JAMES SCHNELLER, HEIRS
AND BENEF. MARJORIE
SCHNELLER ET AL:
PLTFS. v.

CIVIL ACTION

FOX SUBACUTE AT
CLARA BURKE, GARY:
DEIZIN M.D. ET AL
DFTS.

NO. 06-cv-1504

FILED

APR 10 2006

By

MOTION TO PROCEED IN FORMA PAUPERIS

Dep. Clk

James D. Schneller
Signature

500 E. LANCASTER AVE
#1118

RADNOR, PA 19087
Address

610-688-9471

Telephone Number

JAMES D. SCHNELLER
Print your name

STATEMENT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS

JAMES D. SCHNELLER, HEIRS AND BENEFITS, MARJORIE C.
 Full name of Plaintiff SCHNELLER, ET AL

v.

Civil Action No. FILED

FOX SUBACUTE AT CLARA BURKE, GARY DRETZMAN M.D.
 Defendant(s) ET AL

By APR 10 2006
 I, JAMES SCHNELLER, declare under the penalty of perjury, that I am the plaintiff in the above-entitled case; that in support of my motion to proceed without being required to prepay fees, costs, or give security therefor, I declare that because of my poverty I am unable to pay the costs of said proceedings or to give security therefor and that I believe I am entitled to relief.

- 1.) Are you presently employed? Yes ☐ No ☒
 a.) If the answer is "yes", state the amount of your salary or wages per month, and give the name and address of your employer. AUGUST 31, 2003

I WAS SELF EMPLOYED... INCOME JANUARY TO AUGUST 2003
AVERAGE \$300.00 / MO

- b.) If the answer is "no", state the date of last employment and the amount of the salary and wages per month which you received.

- 2.) Have you received within the past twelve months any money from any of the following sources?

- | | | |
|---|---|-----------------------------|
| a.) Business, profession, or form of self-employment? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| b.) Rent payments, interest, or dividends? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| c.) Pensions, annuities, or life insurance payments? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| d.) Gifts or inheritances? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| e.) Any other sources? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

If the answer to any of the above is "yes", describe each source of money and state the amount received from each during the past twelve months. TRUST PAYS RENT + ELEC. + MED. INS.

+ TELEPHONE. I RECEIVE \$100/WK FROM TRUST SINCE FEBRUARY 2005 FOR ADD'L EXPENSES

- 3.) Do you own cash, or do you have money in a checking or savings account? Yes ☐ No ☒

If the answer is "yes", state the total value of the items owned.

- 4.) Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes ☐ No ☒

If the answer is "yes", describe the property and state its approximate value.

- 5.) List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support. NONE

- 6.) I HAVE LARGE POSTAGE AND COURT COSTS OF PRINTING.

- 7.) REFERENCE IS MADE TO THE ATTACHED AFFIDAVIT OF INABILITY TO PAY COURT COSTS.

I declare under the penalty of perjury that the foregoing is true and correct.

EXECUTED ON

(Date)

4/10/2006
3/14/2006

James D. Schnell
 (Plaintiff's Signature)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

James D. Schneller,
Heirs and beneficiaries of Marjorie C. Schneller, :
by James D. Schneller, trustee ad litem;
Estate of Marjorie Schneller, by and through : CIVIL ACTION
James D. Schneller, trustee ad litem
Marjorie Zitomer, executrix of the Estate
of Marjorie Schneller, : NO. _____
plaintiffs

v. :

Fox Subacute at Clara Burke,
Gary Drizin M.D., Debbie McCoy R.N., :
Marjorie Zitomer, G. Richard Schneller,
T. Sergeant Pepper Esq., Hepburn, Willcox, :
Hamilton, Putnam L.L.P.
Pennsylvania Department Of Aging, Pennsylvania : JURY TRIAL DEMANDED
Department of Health, Division of
Nursing Care Facilities - Norristown Field Office, :
Gary Layman, Judith Folan,
Samuel J. Trueblood Esq., Trueblood &
Amacher L.L.P.
defendants

AFFIDAVIT OF INABILITY TO PAY COURT COSTS

I, James D. Schneller, declare the following, under the penalty of perjury:

1. I am the plaintiff in the above matter, which is a civil action, and because of my financial condition I am unable to pay the fees and costs of prosecuting or defending the action. I have applied to the Court to proceed in forma pauperis.
2. I am an impoverished person and have no funds for clothing, entertainment or any extraneous activity. My budget is that of a 50 year old person who has seen severe wrongs done to his parents and himself, and who then dropped everything to litigate pro se, in order to remedy the transgressions, or to attain awards for damages. I work 12 hours a day at this.

3. I attach as Exhibit A a true and correct copy of the grant of forma pauperis to me in the Montgomery County Court of Common Pleas on case No. 04-06045.
4. I attach as Exhibit B a true and correct copy of the grant of forma pauperis to me in the Montgomery County Court of Common Pleas on case No. 04-06046.
5. I attach as Exhibit C a true and correct copy of the grant of forma pauperis to me in the Chester County Court of Common Pleas on case No. 04-04505.
6. I attach as Exhibit D a copy of the grant of forma pauperis to me in the Delaware County Court of Common Pleas on case No. 04-12192.
7. I attach as Exhibit E a copy of the grant of forma pauperis to me in the Delaware County Court of Common Pleas on case No. 03-06700.
8. The cases in which I have not been granted forma pauperis are limited to cases in Chester County, Pennsylvania, including the Orphans Division, which is the situs of the estates of Marjorie C. Schneller and George H. Schneller.
9. I receive food stamps from the federal and state programs under the Pennsylvania Department of Public Welfare. My case number is 23-0372838, Delaware County A.O.. (A true and correct copy of Department of Public Welfare approval notice dated March 2, 2006 is attached as EXHIBIT F.)
10. In the motion I state that a trust pays, to me, rent, utilities, medical insurance, and \$ 400.00 per month. This refers to two spendthrift trusts which my parents left for my support and maintenance. All payments except the \$ 400.00, or \$100.00 a week, are paid directly to the vendor. The trustee is the First National Bank of Chester County, which is located at 17 E. Market Street, West Chester, Pennsylvania. (A copy of the January statements for these accounts is attached as EXHIBIT G and H)
11. In my motion I state that I have costs of postage and Court costs. These are variable but are the bulk of my \$ 400.00 income every month as a rule. They include printing and copying costs.
12. My appeal from final confirmation of the accounts, in the Estates of the deceased, Marjorie C. Schneller and George H. Schneller, 440 EDA 2005, includes a request for review of depletion of the trust, which results in substandard support, and of an earlier eviction and impoverishment of me, and sale of personalty, all of which was done in breach of the wills and the trusts.
13. I state in the motion that I was employed until August of 2003 and that the trust payments began in February of 2005. The poverty which I experienced in year 2004 was of a severe nature

and has affected my finances for the unforeseeable future.

14. I use the remaining funds each month for public transportation and dry goods. I break even in any given month, and am not saving any money. I have not taken a vacation since 2001. I have no line of credit of any sort.

15. I submit that the above named trustee is permitted distributions from the principle, in the wills and deeds of trust, so that reimbursement to this Court is guaranteed, even in the event of a negative verdict, due to the expected outcome of the appeal from the above named estates, due to my employability, and due to a jurisdiction of this Court, such as over a motion by me for an order directing the trustee, or myself, to reimburse this Court.

16. Because I am experienced at printing I do not request the Court's alleviation of printing costs.

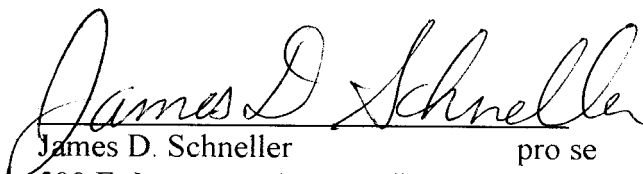
17. I have no assets other than household furnishings and I know no person, nor firm nor charity nor any other source, whom I get or could ask for loans, gifts, debts owed, contributions, or any other material assistance.

18. I am deprived of freedom by the acts of the defendants to a great degree. There was and is a quantity of wrongs done to me and my parents, by the defendants and other parties, which is of great volume, and which occurred in a prolonged and horrific series of occurrences.

19. The nature of the acts, along with the surrounding milieu which resulted from the Pennsylvania enactment of new rules regarding professional liability actions, has prevented me from obtaining an attorney so far. For these reasons I have foregone employment in order to litigate. My financial condition is continued by my representing myself, and my deceased parents, as I am devoting all of my time to research and litigation, and to a concerted effort to file suit before the statute of limitations runs.

20. I understand that I have a continuing obligation to inform the court of any improvement in my financial circumstances.

I, James D. Schneller, solemnly affirm and attest that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to penalty of perjury.


James D. Schneller pro se

500 E. Lancaster Avenue # 111D
Radnor, PA 19087
610-688-9471

Date: April 10, 2006

4. I understand that I have a continuing obligation to inform the court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Date:

3/31/04

James Schneller
Petitioner

EXHIBIT A

ORDER

AND NOW, this 31st day of MARCH, 2004, upon consideration of the foregoing, it is hereby ORDERED that the Petition to Proceed in Forma Pauperis, in the above matter, is:



GRANTED.



GRANTED as to FILING FEE ONLY (for commencement of action or taking an appeal), without prejudice to Petitioner filing a subsequent Petition and Affidavit regarding additional costs or fees, if appropriate.



DENIED - Reason:

If the underlying action herein is an appeal from a district justice judgment for possession of real estate, the appeal does not operate as a supersedeas unless the appellant complies with Pa.R.C.P.D.J. No. 1008B.

BY THE COURT:

William T. Nicholas, Jr.

WILLIAM T. NICHOLAS, J.

J.

2004-06045-0002

Order

Montgomery County Prothonotary
William J. Donnelly

Wednesday, March 31, 2004 02:15:00 PM

In the Court of Common Pleas
of Delaware County, Pennsylvania

Civil Action

James D. Schneller, Heirs of
Marjorie Schneller Estate of Marj-
versus orie Schneller

Taylor Hospital, et al

11/09/04
No. 04-12192

ORDER

AND NOW, this 15th day of October, 2004, upon
consideration of the APPLICATION FOR LEAVE TO PROCEED IN FORMA PAUPERIS filed
in the above captioned matter, it is hereby ORDERED that said APPLICATION is
☒ GRANTED

☐ DENIED for the following reason:

☐ Application discloses ability to pay.

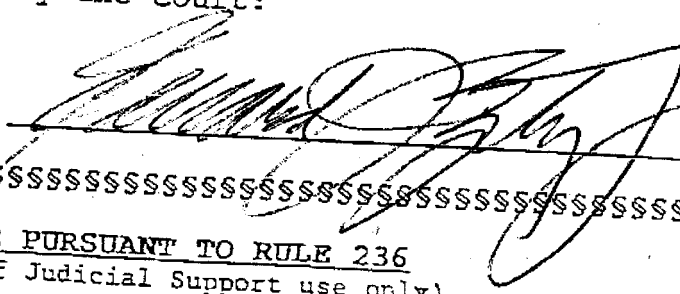
☐ Application contains insufficient information for
determination of ability to pay.

☐ Other: _____

EXHIBIT D

FILED IN
2004 OCT 20 PM 4:07
OFFICE OF
JUDICIAL SUPPORT
DELAWARE CO. PA.

By the Court:

 J.

NOTICE PURSUANT TO RULE 236
(Office of Judicial Support use only)

to all parties to the above captioned action:

the above ORDER was entered on _____, 2004. If the
APPLICATION FOR LEAVE TO PROCEED IN FORMA PAUPERIS was DENIED, then the
applicant must pay the requisite filing fee of \$203. within ten (10) days of
the date that the ORDER was entered. Failure to do so can result in having
the appeal stricken or the entry of a judgment of non pros without any
further notice to the Applicant. The filing fee must actually be received by
the Office of Judicial Support within ten (10) days, regardless of any
postmark date on the envelope.

ELIGIBLE NOTICE

Notice ID 67165338

PAGE 1 C

DARBY DELAWARE CAO, DOW2 845 MAIN STREET DARBY PA 19023-2108			
CAO RETURN ADDRESS	UNIT	CG	CSLD 2476

CD	RECORD	CAT	GG	DIST
23	0373838	PS		2

IF YOU DO NOT UNDERSTAND OUR DECISION OR HAVE ANY QUESTIONS, PLEASE CONTACT YOUR WORKER IMMEDIATELY.

C10272838C0

JAMES D SCHNELLER
500 E. LANCASTER AVE
111D
WAYNE PA 19087

WORKER:	A NGUYEN
WORKER ID:	
TELEPHONE:	(610) 461-3800
DATE:	03/02/2006
NOT:	034 OPT: TYPE: E

EXHIBIT F

YOU HAVE BEEN DETERMINED ELIGIBLE FOR THE BENEFITS SHOWN BELOW.

FOOD STAMP EFFECTIVE 03/13/2006.
ALL FOOD STAMP BENEFITS ARE DEPOSITED INTO YOUR EBT ACCOUNT (ELECTRONIC BENEFIT TRANSFER).
YOU WILL RECEIVE 151.00 A MONTH FROM MARCH 2006 TO MARCH 2007

LEGAL HELP IS AVAILABLE AT:

LEGAL AID OF SOUTHEASTERN
PENNSYLVANIA
410 WELSH STREET
CHESTER PA 19013

APPEAL AND HEARING

If you disagree with our decision, you have the right to appeal. You will receive a form for a complete explanation of your right to appeal and to a fair hearing.

APPLICANT NAME AND ADDRESS

JAMES D SCHNELLER
500 E. LANCASTER AVE
111D
WAYNE PA 19087

Notice ID: 67165338

CD	RECORD	CAT	GG	DIST
23	0372938	PS		2

CAO ADDRESS

DARBY
DELAWARE CAO, DOW2
845 MAIN STREET
DARBY PA 19023-2108

WORKER:	A NGUYEN
APPEAL:	
TELEPHONE:	(610) 461-3800
DATE:	03/02/2006
NOT:	034 OPT: TYPE: E

IF YOU WISH TO APPEAL, COMPLETE THE BACK OF THIS FORM AND RETURN THE BOTTOM PORTION TO CAO.

For the Account of:

MARJORIE C SCHNELLER TUW FBO JAMES D SCHNELLER

Account Number:

24 00 7762 05 7

Date:

From JANUARY 1, 2006 through JANUARY 31, 2006



TRUST AND INVESTMENT SERVICES

17 E. Market Street, P.O. Box 3105, West Chester, PA 19381

P 484.881.4070 W fnbank.com

Receipts & Disbursements

Date	Income Cash	Principal Cash	Investment Cost Basis
BEGINNING BALANCES	-100.00	0.00	231,180.56
01/03/2006 DIVIDEND ON 65 SHARES @ 0.185 AUTOMATIC DATA PROCESSING INC COM	12.03		
01/03/2006 DIVIDEND ON 30 SHARES @ 0.215 BECTON DICKINSON & CO COM	6.45		
01/03/2006 DIVIDEND ON 23 SHARES @ 0.29 GANNETT INC COM	6.67		
01/03/2006 DIVIDEND ON 30 SHARES @ 0.28 JOHNSON CONTROLS INC	8.40		
01/03/2006 DIVIDEND ON 50 SHARES @ 0.26 PEPSICO INC COM	13.00		
01/03/2006 DIVIDEND ON 70 SHARES @ 0.15 WAL MART STORES INC COM	10.50		
01/03/2006 INTEREST ON 25000 PAR VALUE UNITED STATES TREASURY NOTE 1.875% 12/31/2005	234.38		
01/03/2006 INTEREST ON 10000 PAR VALUE UNITED STATES TREASURY NOTE 2.75% 06/30/2006	137.50		
01/03/2006 RMD 25000 FACE VALUE @ MATURITY UNITED STATES TREASURY NOTE 1.875% 12/31/2006		25,000.00	-24,842.50
01/03/2006 PURCHASED 25000.00 UNITS ON 01/03/2006 FIRST NATIONAL MONEY MARKET PRINCIPAL - 01		25,000.00	25,000.00
01/04/2006 INTEREST RECEIVED FIRST NATIONAL MONEY MARKET PRINCIPAL - 01	16.35		
01/04/2006 DIVIDEND ON 31 SHARES @ 0.33 UNITED PARCEL SERVICE INC C B	10.23		
01/04/2006 TRUST DEPARTMENT FEE FOR QUARTER ENDED 12/31/05	-358.94		
01/04/2006 TRUST DEPARTMENT FEE FOR QUARTER ENDED 12/31/05		-358.94	
01/04/2006 SOLD 358.94 UNITS ON 01/04/2006 FIRST NATIONAL MONEY MARKET PRINCIPAL - 01		358.94	-358.94
01/05/2006 PRINCIPAL CASH TRANSFERRED TO INCOME CASH	3.45	-3.45	
01/06/2006 PRINCIPAL CASH TRANSFERRED TO INCOME CASH	100.00	-100.00	
01/06/2006 JAMES D SCHNELLER WEEKLY DISTRIBUTION	-100.00		

EXHIBIT G

For the Account of:

MARJORIE C SCHNELLER TUW FBO JAMES D SCHNELLER

Account Number:

24 00 7762 05 7

Date:

From JANUARY 1, 2006 through JANUARY 31, 2006



Bank of Chester County

TRUST AND INVESTMENT SERVICES

17 E. Market Street, P.O. Box 3105, West Chester, PA 19381

• 884.881.4870 • www.fnbank.com

Receipts & Disbursements

Date	Income Cash	Principal Cash	Investment Cost Basis
01/24/2006 SOLD 1165.82 UNITS ON 01/24/2006 FIRST NATIONAL MONEY MARKET PRINCIPAL -01		1,165.82	-1,165.82
01/25/2006 DIVIDEND ON 130 SHARES @ 0.25 GENERAL ELEC CO COM	32.50		
01/26/2006 PURCHASED 32.50 UNITS ON 01/26/2006 MONEY MKT OBLIGS TR INC GV OBLIGS INST 05	-32.50		32.50
01/27/2006 DIVIDEND ON 35 SHARES @ 0.09625 MEDTRONIC INC COM	3.37		
01/27/2006 DIVIDEND ON 95 SHARES @ 0.17 SYSCO CORP COM	16.15		
01/27/2006 JAMES D SCHNELLER WEEKLY DISTRIBUTION	-100.00		
01/27/2006 SOLD 32.50 UNITS ON 01/27/2006 MONEY MKT OBLIGS TR INC GV OBLIGS INST 05	32.50		-32.50
01/30/2006 PRINCIPAL CASH TRANSFERRED TO INCOME CASH	47.98	-47.98	
01/31/2006 SOLD 47.98 UNITS ON 01/31/2006 FIRST NATIONAL MONEY MARKET PRINCIPAL -01		47.98	-47.98
ENDING BALANCES	0.00	0.00	229,378.01

Account of
JAMES H. SCHNELLER TOW FBO JAMES D. SCHNELLERAccount Number:
4 00 7763 05 5

Date:

From JANUARY 1, 2005 through JANUARY 31, 2006



TRUST AND INVESTMENT SERVICES

17 E. Market Street, P.O. Box 3105, West Chester, PA 19380
P 484.881.4070 W 1stbank.com

Receipts & Disbursements

Date	Income Cash	Principal Cash	Investment Cost Basis
BEGINNING BALANCES	0.00	0.00	76,491.33
01/04/2006 DIVIDEND RECEIVED MONEY MKT OBLIGS TR INC GV OBLIGS INST 05	3.69		
01/04/2006 INTEREST RECEIVED FIRST NATIONAL MONEY MARKET PRINCIPAL - 01	13.86		
01/04/2006 TRUST DEPARTMENT FEE FOR 6 MONTHS ENDED 12/31/05	-240.26		
01/04/2006 TRUST DEPARTMENT FEE FOR 6 MONTHS ENDED 12/31/06		-240.26	
01/04/2006 SOLD 240.25 UNITS ON 01/04/2006 MONEY MKT OBLIGS TR INC GV OBLIGS INST 05	240.25		240.25
01/04/2006 SOLD 240.26 UNITS ON 01/04/2006 FIRST NATIONAL MONEY MARKET PRINCIPAL - 01		240.26	-240.26
01/05/2006 PURCHASED 22.35 UNITS ON 01/05/2006 MONEY MKT OBLIGS TR INC GV OBLIGS INST 05	-22.35		22.35
01/09/2006 DIVIDEND ON 3509.627 SHARES @ 0.0205 HAVERFORD QUALITY GROWTH STOCK FUND #1225	7.09		
01/10/2006 PURCHASED 71.95 UNITS ON 01/10/2006 MONEY MKT OBLIGS TR INC GV OBLIGS INST 05	-71.95		71.95
ENDING BALANCES	0.00	0.00	76,105.12

EXHIBIT H